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235 South Beretania Street, Room 801
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Attorney for Plaintiff

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2001 SEP 10 PM 1:57

H. CHING

CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Office of)	CIVIL NO. <u>01-1-2654-09</u>
Consumer Protection,)	(Other Civil Action)
)	
Plaintiff,)	COMPLAINT; EXHIBITS 1-2 AND
)	SUMMONS
vs.)	
)	
)	
AMERICAN INSTITUTE OF)	
MANAGEMENT STUDIES, INC., a)	
Hawaii corporation and BAMBANG TRI)	
CAHYONO,)	
)	
Defendants.)	
)	

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants, avers
and alleges that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by the Office of Consumer Protection of the
State of Hawaii pursuant to Hawaii Rev. Stat. Chapters 446E, 480 and 487 seeking to

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TRI CAHYONO,)	
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Defendants.)	
_____)	

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
avers and alleges that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by the Office of Consumer Protection of the
State of Hawaii pursuant to Hawaii Rev. Stat. Chapters 446E, 480 and 487 seeking

to enjoin the Defendants from engaging in certain acts or practices in violation of Hawaii's consumer protection laws and to obtain other and additional relief.

2. This court has subject matter jurisdiction over this case pursuant to Hawaii Rev. Stat. §§ 480-21 and 603-21.5.

3. Defendant American Institute of Management Studies, Inc. ("AIMS") is a Hawaii corporation.

4. Upon information and belief, Defendant Bambang Tri Cahyono is a resident of the State of Hawaii.

5. On October 16, 1998 Articles of Incorporation for AIMS were filed with the Department of Commerce and Consumer Affairs of the State of Hawaii.

6. AIMS's articles of incorporation identify its registered office as being located at 212 Merchant Street, Suite 303, Honolulu, Hawaii 96813-2925.

7. AIMS's articles of incorporation also identify Defendant Cahyono's residence address as 212 Merchant Street, Suite 303, Honolulu, Hawaii 96813-2925. In fact, 212 Merchant Street is not a residential address, but an office suite located in the downtown business district of Honolulu.

8. AIMS's articles of incorporation identify one of its purposes as "to issue non-accredited diplomas."

9. AIMS's articles of incorporation identify its president as Defendant Cahyono.

10. AIMS's annual reports for the years ending December 31, 1998 and 1999 also identify its president as Defendant Cahyono at the same "residence" address.

11. AIMS maintains a website located at <http://www.aimshawaii.com>. That uniform resource locator address is registered to Defendant Cahyono at 2255 Kuhio Avenue, Suite 920, Waikiki Trade Center, Honolulu, Hawaii 96815.

12. Defendant Cahyono is also the administrative and billing contact for the website.

13. The AIMS website listed under its "Contact Us" section, the 2255 Kuhio Avenue, Suite 920, Honolulu, Hawaii address.

14. Defendant AIMS is not now and never has been accredited by a recognized accrediting agency or association recognized by the United States Secretary of Education.

15. Defendant Cahyono is not now and never has been accredited by a recognized accrediting agency or association recognized by the United States Secretary of Education.

16. AIMS is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

17. AIMS has a "presence" in the State of Hawaii as that term is used in Haw. Rev. Stat. §446E-1.

18. Having learned of AIMS's operations, plaintiff asked AIMS and its principals, including Defendant Cahyono, to demonstrate that they were in compliance with Hawaii's laws regarding unaccredited degree granting institutions. A true and correct copy of plaintiff's request is attached as Exhibit 1. No response was received.

19. Following AIMS's failure to voluntarily demonstrate that it was in compliance with Hawaii's laws regarding unaccredited degree granting institutions, plaintiff issued and served an administrative subpoena duces tecum requiring a designee of AIMS to appear, to testify and to produce documents. A true and correct copy of the subpoena duces tecum is attached as Exhibit 2. AIMS failed and refused to comply with the subpoena duces tecum.

COUNT I
FAILURE TO PRODUCE RECORDS AND INFORMATION

20. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 19 as though fully set forth herein.

21. AIMS failed to provide records and information upon Plaintiff's demand in violation of Hawaii Rev. Stat. §446E-2(b).

22. Violations of Hawaii Rev. Stat. § 446E-2(b) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT II
FAILURE TO MAKE STATUTORY DISCLOSURES

23. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 22 as though fully set forth herein.

24. AIMS failed to properly and adequately disclose in all catalogs, promotional materials, including its website, and/or written contracts for instruction the fact that it is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

25. Each and every catalog, promotional material and/or written contract for instruction that failed to properly and adequately disclose the fact that AIMS is and was not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

26. Violations of Hawaii Rev. Stat. § 446E-2(a) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT III
FAILURE TO HAVE AN OFFICE LOCATED IN HAWAII

27. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 26 as though fully set forth herein.

28. AIMS has failed to have an office located in Hawaii in violation of Hawaii Rev. Stat. §446E-5(d).

29. Violations of Hawaii Rev. Stat. § 446E-5(d) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT IV
DEFENDANT BAMBANG TRI CAHYONO'S INDIVIDUAL LIABILITY

30. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 29 as though fully set forth herein.

31. Defendant Bambang Tri Cahyono actively or passively participated in the illegal activity and/or formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of the various acts and practices described herein.

COUNT V
INJUNCTIVE RELIEF

32. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 31 as though fully set forth herein.

33. Unless Defendants are restrained and enjoined by this court from continuing to violate Hawaii Rev. Stat. Chap. 446E and § 480-2(a) in the manner described herein, they will continue to do so, irreparably harming and injuring the consuming public of the State of Hawaii.

WHEREFORE, plaintiff prays that this court:

1. Find, order, adjudge and declare that Defendants' conduct, as alleged herein, violates the statutory provisions set forth above.

2. Issue a temporary restraining order, preliminary injunction and permanent injunction directing the Business Registration Division of the Department of Commerce and Consumer Affairs of the State of Hawaii to dissolve, terminate, revoke and/or cancel all tradenames, trademarks, corporate registrations (including

that for Stanton University, Inc.), certificates of authority held by or for the defendants.

3. Issue a temporary restraining order, preliminary injunction and permanent injunction enjoining the defendants, their agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from any of the following:

- a. Providing any post-secondary instructional programs or courses leading to a degree;
- b. Acting as or holding themselves out as a “college, academy, institute, institution, university” or anything similar thereto;
- c. Failing to comply with Hawaii Rev. Stat. Chap. 446E or § 480-2(a) in any particulars; and
- d. Owning or operating any business in the State of Hawaii, claiming to operate under the laws of the State of Hawaii, or having a presence in Hawaii until all restitution, civil penalties and costs entered herein are fully satisfied.

4. Assess appropriate civil penalties against the defendants individually pursuant to Hawaii Rev. Stat. § 480-3.1 and enter judgment in favor of plaintiff accordingly.

5. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against the defendants, jointly and severally, pursuant to Hawaii Rev. Stat. § 487-14 and the court's inherent authority and enter judgment accordingly.

6. Assess and award judgment in favor of plaintiff and against the defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

7. Award plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, September 10, 2001.

JEFFREY E. BRUNTON
Attorney for Plaintiff

State of Hawaii vs. American Institute of Management Studies, Inc., and Bambang Tri Cahyonol; Civil No. _____; COMPLAINT; EXHIBITS 1-2; AND SUMMONS.

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defendants, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

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under the circumstances.

DATED: Honolulu, Hawaii, September 10, 2001.



JEFFREY E. BRUNTON
Attorney for Plaintiff

State of Hawaii vs. American Institute of Management Studies, Inc., and Bambang Tri
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BENJAMIN J. CAYETANO
GOVERNOR

KATHRYN S. MATAYOSHI
DIRECTOR
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

STATE OF HAWAII
OFFICE OF CONSUMER PROTECTION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
LEIOPAPA A KAMEHAMEHA BUILDING
235 SOUTH BERETANIA STREET, ROOM 801
HONOLULU, HAWAII 96813-2419
<http://www.state.hi.us/dcca/ocp>
(808) 586-2636
FAX (808) 586-2640

STEPHEN H. LEVINS
ACTING EXECUTIVE DIRECTOR

JEFFREY E. BRUNTON
LISA P. TONG
MICHAEL J.S. MORIYAMA
STAFF ATTORNEYS

August 14, 2001

American Institute of Management Studies, Inc.
212 Merchant Street, Suite 303
Honolulu, Hawaii 96813-2925

Dr. Bambang Tri Cahyono, President/Director
American Institute of Management Studies, Inc.
212 Merchant Street, Suite 303
Honolulu, Hawaii 96813-2925

Dr. Aung Martono, Secretary/Treasurer/Director
American Institute of Management Studies, Inc.
37 Bedell Avenue
Saint John NB E2K2C1 CN

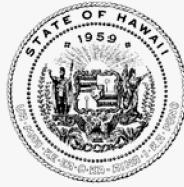
Re: American Institute of Management Studies, Inc.
Our File No. OCP 2001-886

Dear Ladies and Gentlemen:

I am an enforcement attorney with the State of Hawaii's Office of Consumer Protection. It has come to our attention that you may be the owner or operator of an unaccredited degree granting institution either within our jurisdiction or claiming to operate under the laws of this state.

Chapter 446E of the Hawaii Revised Statutes governs the operation of unaccredited degree granting of institutions in Hawaii or operating under the auspices of Hawaii law. A copy of the statute is enclosed. In addition these businesses are subject to all Hawaii laws, including those pertaining to unfair or deceptive business practices.

FILE
EXHIBIT 1



BENJAMIN J. CAYETANO
GOVERNOR

KATHRYN S. MATAYOSHI
DIRECTOR
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS

STATE OF HAWAII
OFFICE OF CONSUMER PROTECTION
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August 14, 2001

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212 Merchant Street, Suite 303
Honolulu, Hawaii 96813-2925

Dr. Bambang Tri Cahyono, President/Director
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American Institute of
Management Studies, Inc.
August 14, 2001
Page 2

All unaccredited degree granting institutions subject to Chapter 446E are required to keep true and accurate records of student enrollment, courses, fees and matriculation rates for five years. State law requires that those records and any other information requested by our office be made available to us on request. Hawaii Rev. Stat. § 446E-2(b).

In order to provide you with this opportunity to demonstrate that you are in compliance with our laws, we have enclosed a series of questions that we ask you to complete and return to my attention by fax at (808) 586-2640 within five days of the date of this letter. In addition we have also enclosed a list of documents which we ask you to send us by regular mail. We are requesting this information in the course of an official investigation.

For your information, any person who violates Chapter 446E is deemed to have violated Hawaii Rev. Stat. § 480-2(a). The penalties for violating that section range between \$500 and \$10,000 for each separate violation. Any person involved in a joint enterprise or venture, and any person who aids and abets, actively or passively participates in, formulates, directs, supervises, controls, commits, causes, knows and approves of or benefits or profits from such violations is also subject to these fines, including officers, directors, employees and agents of corporations.

If we do not receive your response in the time indicated, we will proceed accordingly. If you have any questions about this request, please feel free to contact me at (808) 586-2636.

Very truly yours,

JEFFREY E. BRUNTON

Enclosures

American Institute of
Management Studies, Inc.
August 14, 2001
Page 2

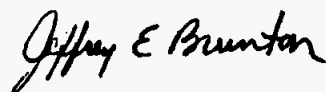
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Very truly yours,



JEFFREY E. BRUNTON

Enclosures

INSTRUCTIONS

Answer each question separately and fully. Answers may be inserted in the spaces provided in the questions and, to the extent that such spaces are inadequate, attach additional pages to the end of the document. Do not leave any questions blank. Sign the questions where indicated and return the questions and answers (not the instructions or definitions) by fax to (808) 586-2640.

TIME PERIOD

Unless otherwise stated herein, the relevant period of time covered by these questions is from January 1, 1997 to the present.

DEFINITIONS

1. "You", "your" and "yours", means American Institute of Management Studies, Inc. and its employees, agents, representatives (including, without limitation, attorneys, accountants, independent contractors and advisers) and any other person or persons acting or purporting to act on its behalf.

2. The word "person(s)" means individuals and entities, including, without limitation, sole proprietorships, firms, associations, companies, partnerships, joint ventures, corporations, trusts, estates, and any other legal, business or governmental entity.

3. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "include(s)" and "including" shall be construed to mean "without limitation."

4. The word "document(s)" is used in its customary broad sense and includes all written, typed, printed, recorded or graphic statements, communications or other matter, however produced or reproduced, and whether or not now in existence, in your possession, custody or control including without limitation:

all writings; studies; analyses; tabulations; evaluations; reports; reviews; agreements; contracts; communications, including intracompany communications; letters or other correspondence; messages; telegrams; telexes; cables; memoranda; records; notes, reports, summaries, sound recordings or transcripts of personal or telephone conversations, meetings, conferences or interviews; telephone toll records; diaries; desk calendars; appointment books; forecasts; accountants' work papers; drawings; graphs; charts; maps; diagrams; blueprints; tables; indices; pictures; photographs; films; phonograph records; tapes; microfilm; microfiche; charges; ledgers; accounts; cost sheets; financial statements or reports; statistical or analytical records; minutes or records of board of directors, committee or other meetings or conferences; reports or summaries of investigations; opinions or reports of consultants; appraisals; reports of summaries of negotiations; books; brochures; pamphlets; circulars; trade letters; press releases; newspaper and handwritten or any other notes; notebooks; projections; working papers; checks, front and back; check stubs or receipts; invoice vouchers; tape data sheets or data processing cards or discs or any other written, recorded, transcribed, punched, taped, filed or graphic matter, however produced or reproduced; and any other documents, writing or other data compilation of whatever description, including but not limited to any information contained in any computer although not yet printed out or the memory units containing such data from which information can be obtained or translated into reasonably usable form, and all drafts and non-identical copies of the foregoing.

5. The word "identify" when used with respect to an individual means to state such individual's: (a) full name, present or last known residence and business address(es) and telephone number(s); (b) present or last known employer(s), place of employment and job title, if any; and (c) the nature (including job title, if any) and dates of any affiliation, by employment or otherwise, with any party to this litigation.

6. The word "identify" when used with respect to a person other than an individual means (a) to state its name; (b) to describe its nature (e.g., corporation, partnership, etc.); (c) to state the location of its principal place of business; and (d) to identify the person or persons employed by such entity with whom you have dealt concerning the subject matter of these interrogatories.

7. The word "identify" when used with respect to a document or documents means (a) to specify the nature or type of the document (e.g., letter, memorandum, etc.); (b) to state date, if any appearing on the document, or if none, the date such document was prepared or received; (c) to describe in general the subject matter of the document with sufficient particularity so as to enable such document to be precisely identified; (d) to identify each person who wrote, signed (or authorized the signature of), dictated, or otherwise participated in the preparation of the document; (e) to identify any addressee thereof, and, if known, each person to whom the document was distributed; (f) to state the present physical location of the document; and (g) to identify each person having possession, custody or control of the document.

8. The word "identify" when used with respect to a conversation, oral communication or meeting means (a) to state the date and location of such conversation, communication or meeting; (b) to identify each person participating therein or present; (c) to state what was said by each participant in the course thereof or the substance of each subject raised, considered or discussed; and (d) to identify any documents which relate or refer to, or set forth or summarize any portion of such communication.

9. The word "identify" when used with respect to a statute, rule or regulation means to state the chapter, section, subsection, paragraph and subparagraph of the statute, rule or regulation.

10. The word "identify" when used with respect to an agreement means to (a) state the date thereof; (b) to state each of the terms thereof; (c) to identify the parties and/or signatories to the agreement; and (d) to identify any oral communication whereby the terms of the agreement were made.

11. The word "identify" when used with respect to a transaction means (a) to identify the parties to the transaction; (b) to state the substance of the transaction; (c) to identify any document(s) reflecting the terms of the transaction; and (d) to identify any oral communication whereby the terms of the transaction were arranged.

12. The word "office" means space within a structure that is leased, subleased, rented, or owned by you or one of your officers or directors for

your exclusive use. "Office" does not include an arrangement for mail forwarding services or mailbox rental.

13. The word "employee" means a person who is hired on an hourly or salaried basis for twenty or more hours per week.

14. When an interrogatory calls for your "basis", "source of information", "source of knowledge" or "source of information and belief", you are to state where, when and the identity of the person from whom information was learned or received, and if by means of a document, to identify each such document.

CORPORATIONS/PARTNERSHIPS/ASSOCIATIONS

If these questions are directed to a corporation, partnership or association they are to be answered by an officer, partner or agent of that entity, who shall furnish such information as is available to that entity.

IMPORTANT NOTE

Under Hawaii law, a person commits the misdemeanor offense of unsworn falsification to authorities if, with an intent to mislead a public servant in the performance of the public servant's duty, the person: (a) Makes any written statement, which the person does not believe to be true. . . . in a record or report required by law to be submitted to any governmental agency; (b) Submits or invites reliance on any writing which the person knows to be falsely made, completed or altered; or (c) Submits or invites reliance on any sample, specimen, map, boundary-mark, or other object the person knows to be false. Hawaii Rev. Stat. § 710-1063.

GENERAL QUESTIONS

1. Do you provide a post-secondary instructional course leading to a degree? (Check the appropriate box)

Yes: _____

No: _____

2. Do you charge a fee for your services?

Yes: _____

No: _____

3. Do you claim to be accredited or a candidate for accreditation by any nationally recognized accrediting agency listed by the United States Secretary of Education?

Yes: _____

No: _____

4. If the answer to the preceding question is yes, identify that agency.

Name: _____

Address: _____

City: _____

State, Zip: _____

Telephone: _____

5. Do you claim to be exempt from the application of Hawaii Revised Statutes Chapter 446E?

Yes: _____

No: _____

6. If the answer to the preceding question is yes, specify the exact subsection or subsections of § 446E-1.6 under which you claim such exemption.

Subsection (1) _____
(2) _____
(3) _____
(4) _____
(5) _____
(6) _____
(7) _____
(8) _____
(9) _____
(10) _____
(11) _____
(12) _____

7. Do you issue juris doctor degrees, master of law degrees or any equivalent or comparable degree?

Yes: _____

No: _____

8. Do you issue doctor of medicine degrees or any equivalent or comparable degree?

Yes: _____

No: _____

9. Identify the agent in Hawaii authorized to accept service of process on your behalf.

Name:

Business Address:

City:

State, Zip:

Telephone No.:

10. Identify the exact physical location of the office in Hawaii required by § 446E-5(d).

Street:

City:

State, Zip:

11. Identify the employee required by § 446E-5(d) that resides in Hawaii.

Name:

Street:

City:

State, Zip:

Telephone No.:

12. Do you claim to be exempt from the requirement in Hawaii Revised Statutes § 446E-5(d) application of Hawaii Revised Statutes Chapter 446E?

Yes: _____

No: _____

13. If the answer to the preceding question is no, identify the twenty-five enrolled students in Hawaii.

Student 1

Name:

Address:

City:

State, Zip:

Telephone No.:

Student 2

Name:

Address:

City:

State, Zip:

Telephone No.:

Student 3

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 4

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 5

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 6

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 7

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 8

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 9

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 10

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 11

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 12

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 13

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 14

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 15

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 16

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 17

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 18

Name:
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Student 19

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Student 20

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Telephone No.:

Student 21

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 22

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 23

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 24

Name:
Address:
City:
State, Zip:
Telephone No.:

Student 25

Name:
Address:
City:
State, Zip:
Telephone No.:

14. If the answer to question 12 is yes, identify the office location maintained in the state of Hawaii and the employee existing on July 1, 1999.

Address:

City:

State, Zip:

Employee Name:

Address:

City:

State, Zip:

Telephone No.

15. Identify all publications, in which you place, caused to be placed or have any advertisements placed on your behalf.

16. Do you maintain a Website?

Yes: _____

No: _____

17. If the answer to the preceding question is yes, provide the uniform resource locator (URL): _____.

18. Identify the person answering these questions and/or providing information in response to them.

Name:

Street:

City:

State, Zip:

Telephone No.:

Requested Documents

1. The written lease agreement, sublease agreement, rental agreement or conveyance document evidencing that you have met the requirement of an "office" in Hawaii Rev. Stat. § 446E-5(d).
2. Specimen copies of any Websites you maintain.
3. Specimen copies of your catalog.
4. Specimen copies of any contract for instruction.
5. Specimen copies of any promotional materials.
6. Copies of any and all advertisements placed, caused to be placed, or placed on your behalf in any publication.

- (4) Accept any waiver, in writing or otherwise, of any right or protection accorded a customer under this part;
 - (5) Fail to exercise reasonable care to protect pledged goods from loss or damage;
 - (6) Fail to return pledged goods to a customer within three business days of payment of the full amount due the pawnbroker on the pawn transaction;
 - (7) Make any charge for insurance, storage, or handling in connection with a pawn transaction;
 - (8) Enter into a pawn transaction which has a maturity date more than one month after the date the pawn transaction agreement is signed;
 - (9) Accept pledged goods or buy merchandise from a person unable to supply verification of identity by photo identification card, a state-issued identification card, driver's license, or federal government-issued identification card; provided that in addition to such verification, the pawnbroker shall take the person's thumbprint, and retain the thumbprint on file;
 - (10) Make any agreement requiring the personal liability of a customer in connection with a pawn transaction or creating any obligation on the part of the customer to redeem pledged goods or make any payment on a pawn transaction;
 - (11) Allow a customer's pawn account to exceed \$10,000. For purposes of this paragraph, "pawn account" means the total accumulation of unpaid pawn finance charges for any single customer; or
 - (12) Accept vehicles, vessels, or negotiable instruments as pledged goods, or certificates of title or registration of vehicles or vessels as evidence of possession of pledged goods.
- (b) Any person who violates this section shall be penalized pursuant to section 445-136. [L 1992, c 192, pt of §2; am L 1993, c 44, §1; am L 1997, c 121, §2; am L 1998, c 255, §1]

PART VIII. SOLICITORS—REPEALED

§§445-181 to 186 REPEALED. L 1996, c 32, §1 and c 67, §6.

PART IX. VEHICLES AND DRIVERS FOR HIRE—REPEALED

§§445-221 to 226 REPEALED. L 1996, c 67, §7.

CHAPTER 446E UNACCREDITED DEGREE GRANTING INSTITUTIONS

SECTION

- 446E-1 DEFINITIONS
- 446E-1.5 ADVISORY BOARD
- 446E-1.6 EXCEPTIONS
- 446E-1.7 POWERS AND DUTIES OF THE DIRECTOR
- 446E-2 DISCLOSURES
- 446E-3 SANCTION
- 446E-4 SERVICE OF PROCESS
- 446E-5 PROHIBITED PRACTICES

§446E-1 Definitions. As used in this chapter:

"Degree" means a post-secondary credential, earned or honorary, conferring on the recipient the title or designation of "associate", "bachelor", "baccalaureate", "master", "doctor", or "doctorate", or any designation, mark, appellation, series of letters or words, or other symbol which signifies, purports, or is generally

taken to signify satisfactory completion of the requirements of an academic or professional program of study beyond the secondary school level.

"Degree granting institution" means a school, academy, institute, junior college, college, university, agency, individual, partnership, company, firm, society, trust, association, corporation, or any combination thereof that meets the following criteria:

- (1) Provides a post-secondary instructional program or course leading to a degree;
- (2) Uses in its name the term "college", "academy", "institute", "institution", or "university" or a similar term which implies that the organization or person is primarily engaged in the education of students at the post-secondary level; and
- (3) Charges a fee for its services.

"Director" means the director of commerce and consumer affairs.

"Employee" means a person who is hired on an hourly or salaried basis for twenty or more hours per week.

"Office" means space within a structure that is leased, subleased, rented, or owned by the unaccredited institution or one or more of its officers or directors for the exclusive use by the unaccredited institution, as evidenced by a written lease agreement, sublease agreement, rental agreement, or conveyance document, and shall not include an arrangement for mail forwarding services or mailbox rental.

"Presence" means offering courses, programs, or degrees or maintaining a campus, or an administrative, corporate, or other address in this State.

"Student" means a person who enrolls in or seeks to enroll in a course of instruction offered or conducted by an unaccredited institution.

"Unaccredited institution" means a degree granting institution that is not accredited or a candidate for accreditation by at least one nationally recognized accrediting agency that is listed by the United States Secretary of Education. [L 1979, c 135, pt of §2; am L 1999, c 171, §2]

[§446E-1.5] **Advisory board.** The state post-secondary education commission, as established by chapter 305H, shall serve as a resource to the director as needed regarding the requirements of this chapter. [L 1999, c 171, pt of §1]

[§446E-1.6] **Exceptions.** This chapter shall not apply to the types of schools and courses of instruction that include:

- (1) Schools and educational programs conducted by firms, corporations, or persons for the training of their own employees;
- (2) Apprentice or other training programs provided by labor unions to union members or union applicants for membership;
- (3) Courses of instruction that do not lead to the conferring of a degree;
- (4) Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for their members or employees of their members;
- (5) Courses of instruction conducted by a public school district or a combination of public school districts;
- (6) Colleges and universities that grant degrees pursuant to chapters 304 and 305;
- (7) Entities that are established under the jurisdiction of the board of regents of the University of Hawaii;
- (8) Schools, courses of instruction, or courses of training that are offered by a vendor to the purchaser or prospective purchaser of the vendor's product

when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge which enable the purchaser to use the product;

- (9) Schools and educational programs conducted by religious organizations solely for the religious instruction of their members;
- (10) Nondegree granting post-secondary educational institutions licensed by the department of education or the real estate commission; and
- (11) Schools that are accredited by an agency or organization approved or recognized by the United States Department of Education or a successor agency, except as provided for in section 446E-5(b) and (c). [L 1999, c 171, pt of §1]

[§446E-1.7] Powers and duties of the director. The director may adopt rules in accordance with chapter 91 to carry out the functions, powers, and duties set forth in this chapter. [L 1999, c 171, pt of §1]

§446E-2 Disclosures. (a) Any unaccredited institution shall disclose in all catalogs, promotional materials, and contracts for instruction, the fact that the institution is not accredited by any nationally recognized accrediting agency listed by the United States Secretary of Education. The disclosure shall be made in a type size as large or larger than any other text in the catalog, promotional material, or contract for instruction, excluding the name of the unaccredited institution, and shall be presented in a manner reasonably calculated to draw the attention of the reader. If the unaccredited institution includes in its catalogs, promotional materials, or contracts for instruction any other information relating in any manner to accreditation, or to accreditation by an agency not nationally recognized by the United States Secretary of Education, the disclosure required by this subsection shall be repeated on every page on which the information appears. Where the information is presented electronically, the disclosure shall be made directly preceding or following the information. The disclosure shall read as follows:

(Name of Degree Granting Institution) IS NOT ACCREDITED
BY AN ACCREDITING AGENCY
RECOGNIZED BY THE UNITED STATES
SECRETARY OF EDUCATION.

Note: In the United States, many licensing authorities require accredited degrees as the basis for eligibility for licensing. In some cases, accredited colleges may not accept for transfer courses and degrees completed at unaccredited colleges, and some employers may require an accredited degree as a basis for eligibility for employment.

(b) Every unaccredited institution subject to this chapter shall keep true and accurate records of student enrollment, courses, fees, and matriculation rates. These records shall be retained for five years. Upon demand, these records, and any other information requested or subpoenaed by the director, shall be made available to the director. [L 1979, c 135, pt of §2; am L 1990, c 226, §2; am L 1999, c 171, §3]

§446E-3 Sanction. Any person who violates this chapter shall be deemed to have engaged in an unfair or deceptive act or practice pursuant to section 480-2. [L 1979, c 135, pt of §2; am L 1999, c 171, §4]

§446E-4 Service of process. (a) Any unaccredited institution with a presence in the State shall designate and continuously maintain an agent in this State authorized to accept service of process on behalf of the institution and shall transmit

to the director the name, address, and telephone number of the agent so designated in a manner prescribed by the director. The designated agent shall be an agent of the unaccredited institution for service of any process, notice, or demand required or permitted by law to be served upon the unaccredited institution.

(b) If an unaccredited institution fails to appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's address, service of process may be made upon the unaccredited institution by registered or certified mail, return receipt requested, addressed to the unaccredited institution at the most recent address listed in the records of the director.

(c) Service by registered or certified mail shall be effected under subsection (b) at the earliest of:

- (1) The date the unaccredited institution receives the process, notice, or demand;
- (2) The date shown on the return receipt, if signed on behalf of the unaccredited institution; or
- (3) Five days after its deposit in the mail, if mailed postpaid and correctly addressed.

(d) This section shall not affect the right to serve process, notice, or demand in any other manner provided by law. [L 1990, c 226, pt of §1; am L 1999, c 171, §5]

§446E-5 Prohibited practices. (a) No unaccredited institution shall indicate or suggest that the State licenses, approves, or regulates its operations. Acceptance by the director of any documents from an unaccredited institution shall not be construed as evidence that the director has determined the adequacy of any filing.

(b) Any institution that is not accredited by the American Bar Association shall not issue a juris doctor degree (J.D.), a master of laws degree (LL.M.), or any equivalent or comparable degree.

(c) Any institution that is not accredited by the Liaison Committee on Medical Education shall not issue a doctor of medicine degree (M.D.), or any equivalent or comparable degree.

(d) No unaccredited institution shall issue degrees unless the institution has an office located in Hawaii, at least one employee who resides in Hawaii, and at least twenty-five enrolled students in Hawaii, in each academic year of its operation for the purpose of performing course requirements that are part of the students' educational curriculum.

(e) No unaccredited institution that operates in or from the State or has a presence in this State shall accept or receive any tuition payment or other fee from or on behalf of a student unless the institution complies with all of the requirements of this chapter.

(f) No unaccredited institution shall disclose in any catalog, promotional material or written contract for instruction that it has applied for future accreditation. [L 1990, c 226, pt of §1; am L 1999, c 171, §6]

Note

L 1999, c 171, §7 provides:

"SECTION 7. Notwithstanding section 446E-5(d), Hawaii Revised Statutes, an unaccredited institution may issue degrees only for a period of no more than three consecutive years from the effective date of this Act [July 1, 1999]; provided that:

- (1) The institution has, on the effective date of this Act [July 1, 1999] and for as long thereafter as it issues degrees pursuant to this section of the Act, an office located in Hawaii, and at least one employee who resides in Hawaii; and
- (2) This period may be extended by two additional consecutive years if the institution has applied for and has been granted eligibility for candidacy or accreditation by an agency approved or recognized

ACT 022

H.B. NO. 761
H.D. 1

A BILL FOR AN ACT

RELATING TO UNACCREDITED DEGREE GRANTING INSTITUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

RECEIVED
MAY 1 8 21 AM '01
REGIONS OFFICE
D. C. HOFFMAN AND
C. HOFFMAN
CONSUMER AFFAIRS

SECTION 1. Section 446E-2, Hawaii Revised Statutes, is

amended to read as follows:

"5446E-2 Disclosures. (a) Any unaccredited institution shall disclose in all catalogs, promotional materials, and contracts for instruction, the fact that the institution is not accredited by any nationally recognized accrediting agency listed by the United States Secretary of Education. The disclosure shall be made in a type size as large or larger than any other text in the catalog, promotional material, or contract for instruction, excluding the name of the unaccredited institution, and shall be presented in a manner reasonably calculated to draw the attention of the reader. If the unaccredited institution includes in its catalogs, promotional materials, or contracts for instruction any other information relating in any manner to accreditation, or to accreditation by an agency not nationally recognized by the United States Secretary of Education, the disclosure required by this

1 subsection shall be repeated on every page on which the
2 information appears. Where the information is presented
3 electronically, the disclosure shall be made directly preceding
4 or following the information. The disclosure shall read as
5 follows:

6 (Name of Degree Granting Institution) IS NOT ACCREDITED
7 BY AN ACCREDITING AGENCY
8 RECOGNIZED BY THE UNITED STATES
9 SECRETARY OF EDUCATION.

10 Note: In the United States, many licensing authorities
11 require accredited degrees as the basis for eligibility for
12 licensing. In some cases, accredited colleges may not accept
13 for transfer courses and degrees completed at unaccredited
14 colleges, and some employers may require an accredited degree
15 as a basis for eligibility for employment.

16 (b) Where promotional material for an unaccredited
17 institution consists of an advertisement in a periodical
18 published by a person or entity that is not affiliated with the
19 unaccredited institution, the disclosure required in subsection
20 (a) may be abbreviated to state as follows: NOT ACCREDITED BY AN
21 AGENCY RECOGNIZED BY THE U.S. SECRETARY OF EDUCATION. The
disclosure required under this subsection shall be made in a



**SUBPOENA
Duces Tecum
STATE OF HAWAII
OFFICE OF CONSUMER PROTECTION**

TO American Institute of Management Studies, Inc.
212 Merchant Street, Suite 303
Honolulu, HI 96813

You are hereby commanded to designate the person most knowledgeable about (1) the corporate structure and organization of American Institute of Management Studies, Inc. (2) the identity of its officers, directors, shareholders, employees, agents, and independent contractors; (3) its business operations, including its products, services and marketing, (4) its financial affairs, particularly its revenues received from students and prospective students and (5) its books and records.

The person so designated is commanded to appear before Jeffrey E. Brunton, Staff Attorney of the Office of Consumer Protection, at 235 South Beretania Street, Room 801, on September 5, 2001 at 1:00 o'clock p.m. to testify regarding potential violations of Hawaii Rev. Stat. Chapter 446E and Haw. Rev. Stat. § 480-2.

You are hereby commanded to bring with you and produce at said time and place the books, papers, documents and objects described on the attached exhibit.

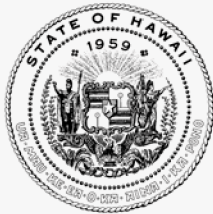
DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT OF COURT.

DATED: Honolulu, Hawaii, August 31, 2001

EXHIBIT 2



STEPHEN H. LEVINS
Acting Executive Director of the Office
of Consumer Protection



SUBPOENA
Duces Tecum
STATE OF HAWAII
OFFICE OF CONSUMER PROTECTION

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You are hereby commanded to bring with you and produce at said time and place the books, papers, documents and objects described on the attached exhibit.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT OF COURT.

DATED: Honolulu, Hawaii, August 31, 2001

STEPHEN H. LEVINS
Acting Executive Director of the Office
of Consumer Protection

RETURN OF SERVICE

Service of this Subpoena Duces Tecum was made on September 4, 2001
by personally delivering a copy to Nina Bourke at
10:34 a.m. 212 Merchant St. #303.

DATED: September 4, 2001

WARREN J. HAYAMA

Service of this Subpoena Duces Tecum was also made by mailing this document, by registered or certified mail, return receipt requested, addressed to American Institute of Management Studies, Inc., 212 Merchant Street, Suite 303, Honolulu, HI 96813

RETURN OF SERVICE

Service of this Subpoena Duces Tecum was made on September 4, 2001

by personally delivering a copy to Nina Bourke at

10:34 a.m. 212 Merchant St. # 303

DATED: September 4, 2001

Warren J. Hayama

WARREN J. HAYAMA

Service of this Subpoena Duces Tecum was also made by mailing this document, by registered or certified mail, return receipt requested, addressed to American Institute of Management Studies, Inc., 212 Merchant Street, Suite 303, Honolulu, HI 96813

ACKNOWLEDGEMENT OF SERVICE

I was personally served a copy of this Subpoena Duces Tecum

on September 4, 2001, 2001.

RECORD OF ATTENDANCE

I certify that the person named herein was in attendance as a witness at the stated

place on _____.

ACKNOWLEDGEMENT OF SERVICE

I was personally served a copy of this Subpoena Duces Tecum

on September 4, 2001, 2001.

Anna K. Brouke

RECORD OF ATTENDANCE

I certify that the person named herein was in attendance as a witness at the stated

place on _____.

EXHIBIT

1. "You", "your" and "yours", means American Institute of Management Studies, Inc. and its employees, agents, representatives (including, without limitation, attorneys, accountants, independent contractors and advisers) and any other person or persons acting or purporting to act on its behalf.

2. The word "person(s)" means individuals and entities, including, without limitation, sole proprietorships, firms, associations, companies, partnerships, joint ventures, corporations, trusts, estates, and any other legal, business or governmental entity.

3. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "include(s)" and "including" shall be construed to mean "without limitation."

4. The word "document(s)" is used in its customary broad sense and includes all written, typed, printed, recorded or graphic statements, communications or other matter, however produced or reproduced, and whether or not now in existence, in your possession, custody or control including without limitation:

all writings; studies; analyses; tabulations; evaluations; reports; reviews; agreements; contracts; communications, including intracompany communications; letters or other correspondence; messages; telegrams; telexes; cables; memoranda; records; notes, reports, summaries, sound recordings or transcripts of personal or telephone conversations, meetings, conferences or interviews; telephone toll records; diaries; desk calendars; appointment books; forecasts; accountants' work papers; drawings; graphs; charts; maps; diagrams; blueprints; tables; indices;

pictures; photographs; films; phonograph records; tapes; microfilm; microfiche; charges; ledgers; accounts; cost sheets; financial statements or reports; statistical or analytical records; minutes or records of board of directors, committee or other meetings or conferences; reports or summaries of investigations; opinions or reports of consultants; appraisals; reports of summaries of negotiations; books; brochures; pamphlets; circulars; trade letters; press releases; newspaper and handwritten or any other notes; notebooks; projections; working papers; checks, front and back; check stubs or receipts; invoice vouchers; tape data sheets or data processing cards or discs or any other written, recorded, transcribed, punched, taped, filed or graphic matter, however produced or reproduced; and any other documents, writing or other data compilation of whatever description, including but not limited to any information contained in any computer although not yet printed out or the memory units containing such data from which information can be obtained or translated into reasonably usable form, and all drafts and non-identical copies of the foregoing.

**The following documents must be produced to comply
with this Subpoena Duces Tecum:**

1. American Institute of Management Studies, Inc.'s Corporate Records.
 - A. The articles of incorporation, the by-laws and any amendments to either.
 - B. The corporate stock ledger.
 - C. The latest annual corporate exhibit, foreign corporation certificates, and all fictitious name filings.
 - D. All documents relating to or demonstrating the identity of members or ownership of American Institute of Management Studies, Inc.
 - E. Minutes of the meetings of the board of directors from 1998 through the present and of any special meetings during that time period.
 - F. All documents relating to or demonstrating the identity of the staff and employees of American Institute of Management Studies, Inc.
 - G. The written lease agreement, sublease agreement, rental agreement or conveyance document evidencing that you have met the requirement of an "office" in Hawaii Rev. Stat. § 446E-5(d).
2. Employee Records.
 - A. Documents identifying all of American Institute of Management Studies, Inc. employees, agents, faculty, advisors, staff, regents, registrars and deans with their current addresses and telephone numbers.
 - B. All contracts, including employment, commission or consultant contracts, by and between American Institute of Management Studies, Inc. and all of its employees, agents, faculty, advisors, staff, regents, registrars and deans and any other individual or entity.
3. Advertising and Promotional Records.
 - A. All advertisements, including but not limited to catalogs, brochures and applications, placed or caused to be placed by you or on your behalf anywhere in the world between January 1, 1998 and the present.
 - B. Printouts of all web-site pages maintained by you from January 1, 1998

through the present.

- C. Specimen copies of all documents sent to or delivered to degree candidates or prospective degree candidates by you or at your direction, including but not limited to brochures, postcards, fliers, transcripts, applications and other promotional materials.
 - D. All documents, which you intend to rely upon to substantiate the claims, made in any of your advertising or promotional material.
4. Sales Records.
- A. All manuals, brochures, tapes, forms, scripts and other documents provided by you to your employees, agents, consultants, faculty, advisors, staff, regents, registrars and deans.
 - B. All audiotapes, tape transcriptions, or other recordings of telephone conversations between you, your agents, employees and consultants or representatives and consumers or prospective consumers.
 - C. All invitations for admissions issued by you from January 1, 1998 through the present.
 - D. All applications for admissions issued by or received by you from January 1, 1998 through the present.
5. Financial Records.
- A. All records showing deposits of any monies received by you or on your behalf from degree candidates' prospective degree candidates or consumers.
 - B. All records showing disbursements of any monies received by you or on your behalf from degree candidates' prospective degree candidates or consumers.
6. Refund And Credit Records.
- A. All records relating to any request from degree candidates, prospective degree candidates or consumers to you regarding cancellation or refunds.
 - B. All records relating to any monies refunded to degree candidates, prospective degree candidates or consumers by you or on your behalf.